

William F. Crowell

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1110 Pleasant Valley Road
Diamond Springs, California 95619

April 10, 2017

Marlene H. Dortch, Secretary
Federal Communications Commission
445 – 12th Street S.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Application of William F. Crowell to renew Amateur Service license W6WBJ
WT Docket No. 08-20; FCC file no. 0002928684

Dear Secretary Dortch:

I am the applicant-licensee in the above-entitled case.

Enclosed you will please find the original and six (6) copies of my Exceptions to Memoranda, Opinions and Orders Nos. 17M-18 and 17M-19 therein.

Please file and docket this document and direct it to ALJ Sippel in the manner that you deem appropriate. I have filed it with the ECFS. Thank you for your cooperation.

Yours very truly,

William F. Crowell
WILLIAM F. CROWELL

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

In re Application of) WT Docket No. 08-20
)
WILLIAM F. CROWELL) FCC File No. 0002928684
)
)
For Renewal of Amateur Radio Advanced Class)
Operator License)

**To: Marlene H. Dortch, Secretary
Federal Communications Commission**

**Attn: Robert L. Sippel,
Administrative Law Judge**

**LICENSEE'S EXCEPTIONS TO ALJ's MEMORANDÁ,
OPINIONS AND ORDERS DATED
APRIL 7, 2017 (FCC 17M-18 & 17M-19)**

On March 28, 2017 I received a Memorandum, Opinion and Order (FCC 17M-13), in which the *only reason* the ALJ could find to reactivate this case was his apparent but incorrect belief that I had failed to attend a deposition which the Enforcement Bureau took of me in November of 2010¹.

¹ The ALJ *must have known* that I appeared for said deposition and cooperated in answering almost all of the questions asked of me by Bureau Counsel, since even a cursory review of the file would have demonstrated that the Bureau was satisfied with my appearance and answers because it took no action to compel further answers. The ALJ well knows the Bureau would indeed have moved for sanctions and/or to compel further answers, had I really failed to appear or to answer. So obviously the ALJ concocted the entire *scenario* concerning the so-called "aborted deposition" merely in order to give himself a phony excuse for reopening the case after 6-1/2 years of inactivity, when in fact there was excuse for *neither* such an egregious delay *nor* for reopening the case.

Since the ALJ's belief about the "aborted deposition" was incorrect, and he must have known it was incorrect but nevertheless chose to recite it in said Orders as if it were true, it fails to pass the smell test. There simply was no other logical reason to have reopened this case, except as a direct response to improper ex parte contacts with the ALJ in this prohibited proceeding.²

In 17M-19, the ALJ purports to rule that I can file no further pleadings herein. Not only is that a violation of my substantive and procedural due process rights, but it also clearly violates the Commission's claimed delegation of authority³ from Congress; i.e., the Commission promised Congress in that purported delegation (which I have argued in a separate motion herein is unconstitutional) that it would abide by its rules, but by his said Orders the ALJ is clearly refusing to do so. The Commission's rules permit me to file additional pleadings, including motions and requests for permission to appeal to the Commission concerning interlocutory rulings⁴. It is illegal under that purported Delegation of Authority for the ALJ to try to prevent me from availing myself of the remedies provided by the Commission's rules.

I have an additional motion that I need to file: a motion to dismiss based upon the fact that the ALJ is an inferior officer of the U.S. Government, not an employee thereof, and that his appointment therefore violates the "Appointments Clause" of the U.S. Constitution (Article II, §2, clause 2) under Bandimere v. SEC, 844 F. 3d 1168 (10th Circuit, 2016) and Freytag v. Commissioner of Internal Revenue, 501 U.S. 868 (1991). The ALJ's said Memoranda, Opinions and Orders

2 The ALJ should have "walked out the door" when pressured by ex parte contacts from other government officials (as Associate Justice Gorsuch of the U.S. Supreme Court said during his confirmation proceedings he would have done, had President Trump asked him to overrule Roe v. Wade). Instead, the ALJ caved.

3 The purported but unconstitutional delegation appears at §5(c) of the Communications Act [47 USC §155(c)] and is fleshed out in 47 CFR, Chapter I, Subchapter A, Part (Commission Organization), Subpart B.

4 Title 47, Chapter I, Subchapter A, Part 1, Subpart B, §1.204 includes motions within the definition of pleadings that I have a legal right to file, and 47 CFR, Chapter I, Subchapter A, Chapter 1, Part 1, Subpart B, §1.301(b) gives me a legal right to request the ALJ's permission to appeal his interlocutory rulings.

complained of herein violate my legal rights by preventing me from raising said defense.

I have the right to file, and I want to file herein, Requests with the ALJ for permission to appeal to the Commission from interlocutory rulings which I believe to be incorrect, as I am specifically permitted to do under the Commission's rules.⁵ To prevent me from doing so is objectionable on the same bases as is the denial of my right to file motions.

At the same time the ALJ ruled that no new papers were to be filed, he asked the parties to produce copies of correspondence in stages, so I do not understand whether I am supposed to file any new and further pleadings or not. I suspect that the ALJ is trying to "whipsaw" me again, by imposing upon me two contradictory requirements and then punishing me no matter which of them I follow.

On March 30, 2017 I filed a request that the ALJ stay the proceedings pending the outcome of my related NAL/FO case, but the ALJ never ruled on same and is further pretending like I never filed it. I contend that all of the rulings that the ALJ has made since I filed said Request are invalid because the stay request was not dealt with first.

I further object to the ALJ's refusal to allow me to appear at conferences by telephone, and to set a field hearing. The cases relied upon by the ALJ in support of that order, which require a licensee seeking renewal to qualify to proceed in forma pauperis in order to appear by telephone at conferences, apply only to broadcast licensees. That is clear from the basic rationale of the cases: they are based on a *presumption of financial solvency* that the licensee has sufficient means to attend a hearing in Washington, D.C., but said presumption arises only because a broadcast license is remunerative in nature, so the licensee may fairly be presumed to be making a living from it. Therefore the licensee is rebuttably presumed to be mak-

⁵ 47 CFR, Chapter I, Subchapter A, Chapter 1, Part 1, Subpart B, §1.301(b).

ing a living from his broadcast license, and must rebut the presumption in order to qualify to proceed in forma pauperis in a licensing case.


In contrast, the amateur radio service is expressly non-remunerative in nature.⁶ Therefore no such presumption ever comes into existence in the first place, so there is no legal requirement that I rebut any presumption of financial solvency.

Therefore the rationale relied upon by the ALJ to support his said rulings (no field hearing and no appearance by telephone at conferences) simply does not apply to the amateur radio service. The ALJ's said ruling therefore represents nothing but another example of the his disingenuousness, his not-so-secret agenda to shaft me, and his failure and refusal to learn and apply the law pertaining to the amateur radio service.

Therefore the ALJ is required under the Commission's Rules, *as well as by the very decisions that he relied upon in making said Orders*, to reverse the flawed reasoning contained therein.

I declare under penalty of perjury that the foregoing is true and correct, and that this Exceptions (etc.) is executed on April 10, 2017 at Diamond Springs, El Dorado County, California.

Respectfully submitted,



William F. Crowell
Applicant-licensee

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⁶ 47 CFR , Part 97, §97.113(a)(2).

PROOF OF SERVICE BY MAIL
[47 C.F.R. Part I, Subpart A, §1.47]

I am a citizen of the United States and a resident of El Dorado County, California. I am the Applicant-licensee herein. I am over the age of 18 years. My address is: 1110 Pleasant Valley Road, Diamond Springs, California 95619-9221.

On April 10, 2017 I served the foregoing Licensee's Exceptions to ALJ's M, M & Os released April 7, 2017 on all interested parties herein by placing true copies thereof, each enclosed in a sealed envelope with postage thereon fully prepaid, in a United States mail box at Diamond Springs, California, addressed as follows:

Office of the Secretary, Federal Communications Commission
Attention: ALJ Sippel
445 – 12th Street S.W., Washington, D.C. 20554
(original and 6 copies)

Pamela S. Kane, Special Counsel
Investigations & Hearings Division, Enforcement Bureau
Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554

I further declare that, on this same date, I emailed a copy of this document to the ALJ and to Bureau Counsel, and that I filed this document under the Commission's Electronic Comment Filing System.

I declare under penalty of perjury that the foregoing is true and correct, and that this proof of service was executed on April 10, 2017 at Diamond Springs, California.



William F. Crowell